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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of)

Joint petition for Rulemaking)
to Establish Rules for)
Subscriber Access to Cable Home)
Wiring for the Delivery of)
Competing and Complementary)
Video Services)

RM No. 8380

**REPLY COMMENTS OF THE ASSOCIATION OF
INDEPENDENT TELEVISION STATIONS, INC.**

The Association of Independent Television Stations, Inc. ("INTV"), hereby submits its reply comments in response to the Commission's Joint Petition For Rulemaking, RM Number 8380 (released November 15, 1993) [hereinafter cited as Notice].¹

Congress has expressly granted the Commission authority to promulgate appropriate rules in this matter. Although the Commission has acknowledged this authority in the Cable Home Wiring Order, the time constraints of the Cable Act did not allow the Commission the necessary time to address this issue properly. It was stated that the issue of home wiring would:

¹ In the Matter of the Cable Television Consumer Protection and Competition Act of 1992, Cable Home Wiring, MM Docket No. 92-260, February 1, 1993.

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...[B]e considered in the context of other proceedings, because of the time constraints under which we must promulgate rules as required by the Cable Act of 1992, we decline to address such rule proposals in this proceeding.²

Now that the Commission has requested comments and has decided to look into this matter further, the Association of Independent Television Stations urges the Commission to begin a rulemaking proceeding.

Many of the comments advocated further Commission action pertaining to the issue of home wiring. As INTV and others who responded to the inquiry found, cable companies now have a monopoly on existing wiring prior to subscriber termination. Persuading a subscriber to terminate existing service is extremely difficult and in the case of complementary services, often unnecessary. If competing and/or complementary services are not able to access existing wires, they are forced to lay redundant wires. This process is long, expensive, and very risky -- a great barrier to entry into the market. The only way to ensure a fair market where newcomers can offer competing and complementary services, is to take away the monopoly that cable companies have enjoyed until now on the use of home wiring prior to termination of services.

The inside wiring rules for cable need to be brought up to date, much the same as telephone inside wiring needed at one time. The two situations are almost identical, and the rules used for telephone wiring would provide an excellent model. To allow the cable companies to continue on their current path will be a damaging slow-down on the information superhighway: with a monopoly on existing wiring, the price of entry is insurmountable to many

² In the Matter of the Cable Television Consumer Protection and Competition Act of 1992, Cable Home Wiring, MM Docket No. 92-260, February 1, 1993 at 4.

companies. Many new and valuable technologies will be shut out if it continues.

The National Cable Television Association (NCTA) argues that rules such as those that apply to the telephone companies cannot be applied to their industry. NCTA argues that cable companies have non-common carrier status, and common carrier rules cannot be applied to them.³ The NCTA has misconstrued Congress's intent in the statement pertaining to home wiring. When it said that "the Committee does not intend that cable operators be treated as common carriers,"⁴ Congress was referring to their treatment under the rules. It does not mean that rules like the ones that apply to the common carriers cannot be used as a model. One has nothing to do with the other.

According to NCTA, to adopt home wiring rules would go "in the face of undisputed Congressional intent."⁵ As stated above and shown in the express statements of Congress, this is not the case. Congress understands the importance of ensuring a fair market so that all competitors receive equal treatment. To allow cable companies a monopoly over the existing wires flies in the face of such an intent. The advent of new technology in the telecommunications industry is necessary to the advancement of our society and requires that all competitors be given the same opportunities in the media-marketplace.

Thus, the Association of Independent Television Stations, Inc., urges the Commission to commence proceedings to examine the need for rules for subscriber access to cable home wiring for the delivery of competing and

³ Comments of the National Cable Television Association, RM No. 8380 (filed December 22, 1993) at 4.

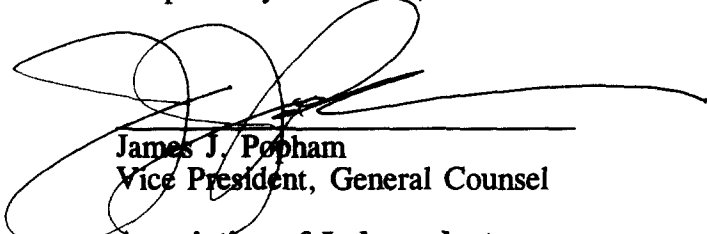
⁴ H.R. Rep. No. 628, 102nd Cong., 2d Sess. at 118-119.

⁵ Comments of the National Cable Television Association, RM No. 8380, (Filed December 22, 1993) at 5.

complementary services.

Respectfully submitted,

Of Counsel,
Alexander A. Preiser



James J. Popham
Vice President, General Counsel

**Association of Independent
Television Stations, Inc.**

1320 19th Street, N.W., Suite 300
Washington, D.C. 20036
(202) 887-1970

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